

Exhibit 3

Stefan Dapergolas

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

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D'PERGO CUSTOM GUITARS, INC.,)
 Plaintiff,) Civil Action No.
vs.) 1:17-CV-000747-LM
SWEETWATER SOUND, INC.,)
 Defendant.)

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VIDEOTAPED DEPOSITION OF STEFAN DAPERGOLAS

This deposition taken pursuant to agreement of
counsel at the offices of Bernstein, Shur, Sawyer &
Nelson, P.A., 670 N. Commercial Street, Suite 108,
Manchester, New Hampshire, on Wednesday, November
14, 2018, from 9:36 a.m. to 5:17 p.m.

Reporter: Donna J. Whitcomb, RMR, LCR NO. 143
(RSA 310A:179)

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1 right -- righties are the remaining necks. And just
2 the arrangement of it, placement, spacing, angle, so
3 forth.
4 Q. Do you claim that the photograph is a
5 trademark of your company?
6 A. I have never claimed that.
7 Q. You don't, correct, the photograph is not
8 a trademark?
9 A. The photograph is not a trademark.
10 Q. How long did you use the photograph?
11 A. From 2002 to about 2007 -- oh, sorry, no,
12 after I created it. Whenever I first saw it, 2003,
13 I'm sorry.
14 Q. 2003 to 2007?
15 A. 2003, yeah.
16 Q. Where else did you use it besides the
17 website?
18 A. I don't recall.
19 Q. Had you ever seen headstocks laid out in a
20 fanned shape before?
21 MR. SHORTELL: Objection.
22 A. Before what?
23 Q. Before you took the image?

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1 A. No.
2 Q. Okay. Now, you were using the name
3 "D'Pergo" before you took this photograph?
4 A. Yes.
5 Q. And yet you didn't include that on the
6 headstocks in this image, right?
7 A. This image was a production photo.
8 Q. What does that mean?
9 A. It demonstrated a stage of production.
10 Q. Are you saying that none of the other
11 stages of production had "D'Pergo" on them?
12 A. I didn't say that. Just this particular
13 photo demonstrated parts we made in a particular
14 stage of production.
15 Q. Why didn't you add the name to it?
16 A. They weren't yet at that stage.
17 Q. How about in '04?
18 A. I'm not understanding the question.
19 Q. Why didn't you include a image with the
20 name on it in '04?
21 A. There were other images with the name on
22 it.
23 Q. Of just the guitar necks?

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1 A. I don't recall.
2 Q. So you kept this image with no name on it
3 on your website from '03 to '07?
4 A. Correct.
5 Q. Why did you take it off?
6 A. Because we underwent a site redesign and I
7 hired a professional photographer who came in and
8 took photography.
9 Q. Where else did you use the image besides
10 the website?
11 A. That's the only place that I know of that
12 I can recall.
13 THE WITNESS: Is this one mine?
14 MR. SHORTELL: I don't know. That's
15 why I didn't. I was about to but then... Sorry.
16 Q. Where did you store the digital image
17 after you took it?
18 A. Digital image, I do not remember.
19 Q. Did you ever allow any third parties to
20 use this image?
21 A. No.
22 Q. Did you ever see it on the internet
23 anyplace else?

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1 A. Only on a blog that was a link to the
2 defendant's website.
3 Q. What blog was that?
4 A. Sorry, I can't remember. It's something
5 chocolate; that's what I remember.
6 Q. And who put that up?
7 A. Someone who -- this wasn't discovered
8 until recently also. Whoever had this blog, I'm not
9 sure.
10 Q. So the name of the blog is something
11 chocolate?
12 A. No, it's -- I'm missing the first part of
13 it. Dreams In Chocolate or something. I don't
14 remember the specific name but I'm sure that we can
15 get it.
16 Q. I'm sorry, did you save or print out this
17 blog?
18 A. We did. I think we took a -- might have
19 taken a screenshot.
20 Q. Did you provide that to the defendant?
21 A. Um, I'm not sure. I'm not sure when we
22 discovered it.
23 Q. Do you have any idea when -- who